

## REMARKS

Claims 24 and 34 have been amended. Claims 24-34 are pending. Applicant reserves the right to pursue the original claims and other claims in this and in other applications.

Claims 24-31, 33 and 34 stand rejected under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent No. 5,627,373 ("Keese"). Applicant respectfully traverses the rejection.

The present invention relates to a charged particle beam apparatus including a charged particle source, an optical element, an alignment deflector and a control device. (FIG. 1). An important feature of the invention of claim 1 is the recited "the control device calculates parameter of the alignment detector so that the two dimensional deviation becomes zero or nearly zero regardless of variation of an operation condition . . . [and] calculates a signal . . ." The claimed invention has several advantages: (1) realizing a high accuracy axis alignment regardless of the condition of an apparatus because the deflection signal to be supplied to a deflector is calculated after a condition of the deflector is calculated in each alignment operation; and (2) carrying out an alignment operation based on the condition of the device. Keese fails to disclose or suggest this important aspect of the invention. Keese does not disclose or suggest how a signal supplied to the aligner is obtained based on a deviation information or calculating a signal supplied to a deflector based on a calculated parameter of the deflector. For at least this reason, the § 102(b) rejection of claim 24 should be withdrawn and the claim allowed.

Claims 25-31, 33 and 34 depend from claim 24 or recite limitations similar to those discussed above. Claims 25-31, 33 and 34 should be allowable along with claim 24

and for other reasons. Consequently, the application, with claims 24-31, 33 and 34, should be in condition for allowance.

Claim 32 stands rejected under 35 U.S.C. § 103 (a) as being unpatentable over Keese in view of U.S. Patent No. 6,067,164 ("Onoguchi"). Applicant respectfully traverses the rejection.

For the reasons set forth above, Keese does not disclose or teach all of the limitations of claim 24. Claim 32 depends from claim 24 and contains all of the limitations of claim 24. The Office Action relies on Onoguchi to disclose a Fourier transform to quantify an image and therefore, fails to cure the deficiencies of Keese. Because Keese and Onoguchi fail to disclose, teach or suggest all limitations of claim 32, the rejection should be withdrawn and the claim allowed.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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